

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cassandra Fenkel	Team: Squad #10	CCRB Case #: 201509517	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 11/07/2015 1:00 AM	Location of Incident: 136th Avenue and Springfield Boulevard and the 105th precinct stationhouse	Precinct: 105	18 Mo. SOL 5/7/2017	EO SOL 5/7/2017	
Date/Time CV Reported Mon, 11/09/2015 3:08 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 11/09/2015 3:08 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. POM Sheldon Malcolm	22436	943512	105 PCT
3. POM James Stgermain	08443	949691	105 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Sheldon Malcolm	Abuse: PO Sheldon Malcolm stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM James Stgermain	Abuse: PO James Stgermain stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Sheldon Malcolm	Abuse: PO Sheldon Malcolm detained § 87(2)(b) and § 87(2)(b) in the 105th precinct stationhouse parking lot.	
D.POM James Stgermain	Abuse: PO James Stgermain detained § 87(2)(b) and § 87(2)(b) in the 105th precinct stationhouse parking lot.	
E. Officers	Abuse: Officers threatened to arrest § 87(2)(b)	
F. Officers	Abuse: Officers searched the vehicle in which § 87(2)(b) was an occupant.	
G. Officers	Abuse: Officers damaged § 87(2)(b)'s property.	
§ 87(4-b), § 87(2)(g)		

Case Summary

On November 7, 2015, at approximately 1:00 a.m. § 87(2)(b) was driving a 2001 green Nissan Altima with his friend, § 87(2)(b) seated in the passenger's seat. In the area of 136th Avenue and Springfield Boulevard in Queens, § 87(2)(b) and § 87(2)(b) were allegedly pulled over by an unmarked police vehicle occupied by PO Sheldon Malcolm and PO James Stgermain (**Allegation A, Allegation B**). During the stop, two additional vehicles arrived at the scene; a marked NYPD sedan, and a second unmarked vehicle. PO Malcolm and PO Stgermain instructed § 87(2)(b) and § 87(2)(b) to step out of their vehicle, and § 87(2)(b) and § 87(2)(b) were subsequently handcuffed. § 87(2)(b) and § 87(2)(b) were then placed into the second unmarked vehicle that had arrived, and allegedly transported back to the 105th precinct stationhouse parking lot (**Allegation C, Allegation D**). § 87(2)(b) alleged that officers questioned him in the parking lot of the 105th precinct stationhouse regarding his criminal cases and threatened to arrest him if he did not answer (**Allegation E**). § 87(2)(b) and § 87(2)(b) were held in the parking lot for approximately 5 minutes before they were released. Upon their release, § 87(2)(b) alleged that he noticed the officers had ripped the seats and panel of the vehicle (**Allegation F, Allegation G**). Neither § 87(2)(b) nor § 87(2)(b) went inside of the 105th precinct stationhouse at any point. No arrests or summonses resulted from the encounter, and there is no video footage of this incident.

§ 87(4-b), § 87(2)(g)

This case was submitted for closure at 95 days due to the following delays in interviewing civilians and identifying subject officers. § 87(2)(b) was initially unresponsive to the CCRB's contact attempts, but ultimately scheduled interviews for December 8, 2015, and December 28, 2015. § 87(2)(b) missed both interviews and has been uncooperative with the investigation. § 87(2)(b) was interviewed on December 18, 2015, nearly 6 weeks after this complaint was received, as § 87(2)(b) had not been receiving the CCRB's correspondence prior to when he contacted the CCRB on December 15, 2015. Additionally, the officers involved remained unidentified until January 6, 2016, when additional information was received from Sgt. Mark Sinatra of Internal Affairs Bureau Group 31.

Mediation, Civil, and Criminal Histories

- Mediation was offered to § 87(2)(b) and § 87(2)(b) who both opted to have the complaint investigated.
- Neither § 87(2)(b) nor § 87(2)(b) have filed a notice of claim regarding the incident (Board Review 1).

§ 87(2)(b) [§ 86(1)(3)&(4)] [§ 87(2)(c)]

§ 87(2)(b)

Civilian and Officer CCRB Histories

- This is § 87(2)(b) first CCRB complaint (Board Review 3).
- § 87(2)(b) has filed five other complaints with the CCRB, two of which were referred to the Internal Affairs Bureau. § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- PO Malcolm has been a member of service for 9 years. PO Malcolm has had one prior CCRB complaint filed against him, case #201401184, involving three allegations including that of a vehicle stop. None of the allegations against PO Malcolm were substantiated, § 87(2)(g) (Board Review 4).
- PO Stgermain has been a member of service for 5 years. PO Stgermain has had one prior CCRB complaint filed against him, case #201502193. PO Stgermain was cited for other misconduct for providing a false official statement § 87(4-b) § 87(2)(g) The NYPD disposition for this allegation is not available at this time (Board Review 4).

Findings and Recommendations

Explanation of Subject Officer Identification

In a phone call with § 87(2)(b) on December 23, 2015, § 87(2)(b) stated that he had participated in a photo array with Det. Mark Sinatra of the Internal Affairs Bureau. A search of the CTS database confirmed that there was a Sgt. Mark Sinatra assigned to the Internal Affairs Bureau.

§ 87(2)(e), § 87(2)(f)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)

On December 17, 2015, Sgt. Sinatra conducted a photo array with § 87(2)(b) consisting of officers assigned to the 105th precinct anti-crime team. § 87(2)(b) positively identified Malcolm as one of the officers he interacted with. § 87(2)(b) was also shown a photo array of officers from the 105th precinct anti-crime team, but was unable to identify anyone.

The CCRB conducted a photo array with § 87(2)(b) on January 21, 2016. § 87(2)(b) was shown 4 photographic arrays including PO Ryan Hoffman, PO Nicholas Demeo, PO Stgermain, and Malcolm, identified by the roll call as members of the 105th precinct anti-crime team who were working at the time of the incident (Board Review 5). § 87(2)(b) positively identified PO Stgermain as the officer who stopped his vehicle.

According to both the roll call and the CCRB testimonies of PO Malcolm and PO Stgermain, the officers were assigned to anti-crime and working together at the time of the incident. In his CCRB testimony, § 87(2)(b) described the two officers who initiated the vehicle stop as follows: male, black, standing approximately 5'9", dark hair, stocky build, approximately 24-years-old and dressed in plainclothes, and a Hispanic male with a goatee, a slim build, standing approximately 6'1", in his early or mid-thirties, and dressed in plainclothes. The physical descriptions provided by § 87(2)(b) are very similar to PO Malcolm and PO

Stgermain's pedigree information as provided in their NYPD MOS Photographs . PO Stgermain's MOS photograph identifies him as a § 87(2)(b) -old black male who stands 5'7", weighs 160 pounds, with an average build, and black hair, brown eyes, and a clean shaven face (Board Review 6). PO Malcolm's MOS photograph identifies him as a § 87(2)(b) -old black male who stands 5'8", weighs 170 pounds, with an average build, black hair, brown eyes, and a light mustache (Board Review 7). Though PO Malcolm's MOS photograph describes his race as black, when compared to the photograph of PO Stgermain, PO Malcolm has a dramatically lighter skin tone § 87(2)(g)

Additionally, when comparing the photographs of PO Malcolm and PO Stgermain, PO Stgermain could reasonably be mistaken as younger looking than PO Malcolm, § 87(2)(g)

In a brief phone statement with the CCRB on December 23, 2015, § 87(2)(b) explained that he was previously arrested for § 87(2)(b) on an unknown date (Board Review 11). § 87(2)(b) was brought to the hospital as a result of injuries he sustained in the assault. An officer who sat with § 87(2)(b) at the hospital was one of the officers present during this incident. § 87(2)(b) described that he saw this officer exit from the 105th precinct stationhouse while he was held in the parking lot, and that he told § 87(2)(b) that he had been with him during his hospital stay. § 87(2)(b) described this officer as a white male dressed in plainclothes and was unable to provide a more detailed physical description. In his initial intake call with the CCRB, § 87(2)(b) alleged that the officers who initiated the vehicle stop were the officers who guarded him at the hospital, as opposed to an officer who exited from the 105th precinct stationhouse (see § 87(2)(b)'s CCRB statements).

In his CCRB interview, Sgt. Ward acknowledged that he recognized § 87(2)(b) as depicted in a photograph because he briefly saw § 87(2)(b) in the hospital on September 25, 2015. Sgt. Ward denied that he encountered § 87(2)(b) after this date. § 87(2)(g)

§ 87(2)(b). Throughout the investigation, the CCRB also interviewed PO Kevin Hoffman, PO Nicholas Demeo, identified by the roll call as having been on duty and assigned to anti-crime at the time of the incident. The CCRB also identified and interviewed PO Robert Sabella and PO Joseph Prygocki who were assigned to cover Sector EF, which covered the incident location. Sgt. Ward, PO Hoffman, PO Demeo, PO Sabella and PO Prygocki all denied having a recollection of the incident, and denied their presence in the vehicle stop and subsequent detainment of § 87(2)(b) and § 87(2)(b)

§ 87(2)(g)

Allegation A- Abuse of Authority: PO Sheldon PO Malcolm stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B – Abuse of Authority: PO James Stgermain stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation C – Abuse of Authority: PO Sheldon Malcolm detained § 87(2)(b) and § 87(2)(b) in the 105th precinct stationhouse parking lot.

Allegation D – Abuse of Authority: PO James Stgermain detained § 87(2)(b) and § 87(2)(b) in the 105th precinct stationhouse parking lot.

In his CCRB statement, § 87(2)(b) testified that as he drove down Springfield Boulevard with § 87(2)(b) he was signaled to pull over by the lights of an unmarked police vehicle containing PO Malcolm and PO Stgermain identified by the CCRB investigation. § 87(2)(b) was unable to provide a detailed physical description of this vehicle. § 87(2)(b) could not recall whether it was a sedan or an SUV, or the vehicle's color. Upon being stopped, § 87(2)(b) immediately pulled over, and PO Malcolm and PO Stgermain approached. PO Stgermain asked § 87(2)(b) and § 87(2)(b) who the vehicle belonged to and for the vehicle's paperwork. § 87(2)(b) explained that it was his vehicle which he had recently purchased from someone else, and that he was in the process of selling it. § 87(2)(b) explained that he did not have his driver's license or any photo identification on him because he did not have his wallet. Either PO Malcolm or PO Stgermain, § 87(2)(b) could not recall who, asked § 87(2)(b) for his social security number, which § 87(2)(b) verbally provided along with his first and last name. PO Malcolm asked § 87(2)(b) why he didn't have his driver's license and wallet. § 87(2)(b) explained that he left the items in Brooklyn. § 87(2)(b) noted that PO Malcolm appeared to know § 87(2)(b) as he referenced something about § 87(2)(b) and an altercation at a nearby restaurant, Jamaican Flavors. PO Malcolm and PO Stgermain told § 87(2)(b) and § 87(2)(b) to sit tight, and returned to their vehicle. While § 87(2)(b) and § 87(2)(b) sat in their vehicle, a marked NYPD sedan arrived, and a second unmarked vehicle (Chevy Impala, possibly dark blue, black, or grey) arrived approximately a minute after the marked NYPD sedan. The officers from the marked NYPD sedan were at the scene for only a few minutes to speak with PO Malcolm and PO Stgermain, and had no interaction with § 87(2)(b) or § 87(2)(b). PO Malcolm and PO Stgermain returned to § 87(2)(b) and § 87(2)(b) instructed them to step out of the car, handcuffed them, and placed them into the second unmarked vehicle which transported § 87(2)(b) and § 87(2)(b) to the 105th precinct stationhouse. § 87(2)(b) and § 87(2)(b) did not go inside the 105th precinct stationhouse, and were held in the rear parking lot area for approximately 5 minutes before being released (see § 87(2)(b) CCRB statement).

In his intake call with the CCRB, § 87(2)(b) alleged that he and § 87(2)(b) were pulled over by two white males in an unmarked vehicle, and transported back to the 105th precinct stationhouse parking lot. § 87(2)(b) and § 87(2)(b) were allegedly held in the parking lot for over two hours before they were released (see § 87(2)(b)'s CCRB statements).

In their CCRB interviews, both PO Malcolm and PO Stgermain testified that they did not have a recollection of the incident. PO Malcolm and PO Stgermain denied that they stopped a vehicle occupied by § 87(2)(b) or § 87(2)(b) and denied observing any other officer do so. PO Malcolm and PO Stgermain both denied that they detained § 87(2)(b) or § 87(2)(b) at the 105th precinct stationhouse parking lot, and denied that they had any such knowledge about their detainment. PO Malcolm and PO Stgermain were shown photographs of § 87(2)(b) and § 87(2)(b).

§ 87(2)(b) and both PO Malcolm and PO Stgermain denied that § 87(2)(b) or § 87(2)(b) appeared familiar to them. Both PO Malcolm and PO Stgermain were provided with details of § 87(2)(b)'s arrest in § 87(2)(b).

§ 87(2)(b), however, these details did not refresh PO Malcolm or PO Stgermain's memory as to any possible interaction with § 87(2)(b) (Board Review 11). PO Malcolm had no memo book entries between 6:00 p.m. on November 6, 2015, when he began patrol and 1:40 a.m. on November 7, 2015, when PO Malcolm returned to the 105th precinct stationhouse for administrative duties. PO Stgermain had no memo book entries between 7:00 p.m. on November 6, 2015, when he was assigned to a vehicle for patrol and 2:05 a.m. on November 7, 2015, when PO Stgermain ended his tour. § 87(2)(g)

§ 87(2)(b) Additionally, PO Malcolm and PO Stgermain were assigned to an unmarked vehicle. Along with a lack of memo book entries, neither PO Malcolm nor PO Stgermain could specifically articulate what they did during their tour on the night of the incident (see PO PO Malcolm and PO Stgermain's CCRB statement).

§ 87(2)(g)

Allegation E – Abuse of Authority: Officers threatened to arrest § 87(2)(b)

Allegation F – Abuse of Authority: Officers searched the vehicle in which § 87(2)(b) was an occupant.

Allegation G – Abuse of Authority: Officers damaged § 87(2)(b)'s property.

In his CCRB statement, § 87(2)(b) did not corroborate § 87(2)(b)'s allegations regarding the alleged threat of arrest, vehicle search, and property damage (see § 87(2)(b) CCRB statement).

On November 9, 2015, § 87(2)(b) filed the following complaint via telephone with the CCRB. § 87(2)(b) did not wish to schedule a CCRB interview at the time of his initial call. Between November 12, 2015, and November 25, 2015, the CCRB placed five calls and mailed two letters to § 87(2)(b) who was unavailable at the time of each phone call. § 87(2)(b) ultimately contacted the CCRB on December 2, 2015, and scheduled a CCRB interview for December 8, 2015. On December 8, 2015, § 87(2)(b) failed to appear and did not call in advance to cancel or reschedule. A missed appointment letter was mailed to § 87(2)(b) on December 8, 2015. The CCRB placed additional calls to § 87(2)(b) on December 16, 2015, and December 23, 2015. During the call on December 23, 2015, § 87(2)(b) scheduled a second CCRB interview for December 28, 2015. On December 28, 2015, § 87(2)(b) failed to appear and did not call in

interview as he was too busy to do so. § 87(2)(g)

§ 87(4-b), § 87(2)(g)

[illegible]

Squad:

Investigator: _____

Signature _____ Print _____ Date _____

Pod Leader: _____
 Title/Signature Print Date

Attorney: _____

Title/Signature	Print	Date

